IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

WP(C).No. 17087 of 2007(H)

PETITIONER:

MUJEEB RAHIMAN, AGED 32 YEARS,
S/O. MEERAN, MUKKUDAKADAVIL, PALLIPRAM KARA,
MUDICKAL, PERUMBAVOOR.

BY ADV. SRI.K.A.JALEEL

RESPONDENTS:
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1. THE ASSISTANT SUPERINTENDENT OF
POLICE (ASP), PERUMBAVOOR.

2. THE SUB INSPECTOR OF POLICE,PERUMBAVOOR.

BY GOVERNMENT PLEADER SRI.K.C.SANTOSHKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & K.HEMA, JJ.

W.P.(C).NO.17087 OF 2007

Dated this the 28th day of June, 2007

JUDGMENT

Raman, J.

Petitioner is stated to be the owner and in possession of 1 acre 76 cents of land comprised in Sy.No.119/5 of Marampally Village, out of which 56 cents of land is with compound wall on all the sides and there is a residential building therein. The remaining extent is outside the compound wall. According to the petitioner, that was low lying area. But there was no paddy cultivation or agriculture operation. Now he attempted to fill up the low lying area to the ground level, without any intention to convert the nature of the land. It is his further case that five years before, he had cultivated the land with banana plantain. On 18.5.2007, when the petitioner attempted to plant banana plantain in the property, the respondents obstructed him by directing that if the petitioner continues his cultivation, serious consequences will follow. According to him, his right under Articles 14 and 21 of the Constitution of India is infringed by the illegal acts of the respondents.

2. In the statement filed by the respondents, they denied the allegation of police harassment. In the statement filed by the Assistant Superintendent of Police, Perumbavoor, who is in charge of the station as a trainee, it is stated that the petitioner is an accused in Crime No.210/07. It is alleged that the petitioner, along with his younger brother and a tipper lorry driver, wrongfully restrained the Village Officer and there was an attempt of manhandling. The said Village Officer prevented him from his official duties. Further, a stop memo was also issued against the petitioner for filling up the agriculture wet land. A copy of the stop memo prohibiting him from filling up the area is produced along with the statement. Six tipper lorries, engaged in soil filling work, were taken into custody and produced before the District Collector and a mahazar was also prepared. It is further stated that a mass petition was given to the District Collector. The allegation in the petition is that the petitioner is proceeding with filling a pond, named Thamarakulam from which the people at large in that area are using this pond for their daily use. Thus, the allegation that there was any threat or prevention in the matter of banana plantation or the allegation of harassment is denied.

3. In the factual situation, we do not find that there is any police harassment. In view of the fact that a stop memo has already been issued to the petitioner as against filling up of the land, the petitioner can pursue the matter by approaching the higher authorities and seek remedial measures. So long as a stop memo is in force, we cannot find that there is any police harassment against the petitioner. The Writ Petition is dismissed.

P.R.RAMAN, JUDGE

K.HEMA, JUDGE

vgs.